

**TRADOC Pamphlet 715-5**

**Procurement  
BATTLE LABS' GUIDE TO  
DEALING WITH INDUSTRY**

**Department of the Army  
Headquarters, United States Army  
Training and Doctrine Command  
Fort Monroe, Virginia 23651-1047**

**13 June 2000**

## FOREWORD

The Chief of Staff, Army and the U.S. Army Training and Doctrine Command (TRADOC) Commanding General formed the Battlefield Laboratories (Battle Labs) in 1992. The charter to the Battle Labs directed them to be the catalysts for exploring ideas about the changing nature of warfare, the implications to military operations of the post Cold War environment and information age technologies, so that the U.S. would retain the world's dominant, deployable, full-spectrum land force. The principal role of the Battle Labs is to lead the requirements determination process through experimentation. Battle Labs provide a means of furnishing organized settings for soldiers to identify new ideas, experimenting with emerging concepts and technology, and developing integrated solutions for implementation. They are the strategic scouts for new ideas and capabilities for the Force XXI process. Governed by the Army's capstone warfighting concepts, they take in warfighting concepts and technology ideas from all sources, then plan and conduct warfighting experiments with operational units and soldiers to test the efficacy of the ideas before the Army invests in change. In combination with and supported by the other component of the Force XXI process, spiral development, the experiments, insights and eventual solution sets are integrated across the domains of doctrine, training, leader development, organizations, materiel and soldier systems (DTLOMS) in a total team approach. Through the Force XXI process, we enjoy a strong partnership between TRADOC combat developers and Battle Labs, operational units and soldiers, the research and development community in and out of defense, testing agencies, industry and academia. The Battle Labs are a one-stop shop for ideas about improving the Army and joint warfighting.

The U. S. Navy, Marines and Air Force have since established Battle Labs of their own, with processes similar to Force XXI. Army Battle Labs are proactively planning and conducting joint experiments with our sister services on a number of ideas and capabilities to improve interoperability. Army Battle Labs are in strong support of Joint Forces Command in its efforts to establish joint experimentation processes and plans. An exchange of information among all parties, but especially between Battle Lab staffs and industry representatives, is considered essential for mission accomplishment. This guide identifies procedures to broaden and facilitate this exchange of information, but also addresses the numerous statutory and regulatory constraints that restrict the timing and extent of the exchange. Within this framework, this guide identifies --

- Methods to facilitate and broaden a full and candid exchange of information.
- Limitations to the exchange of information when operating in a real-time environment.
- Categories of protected information.
- Standards of conduct that pertain to contacts between government and contractor personnel.

Battle Lab staffs need industry participation in order to discover and promote development of critical technologies, reduce acquisition time and life cycle costs of military systems, and enhance and strengthen existing and future weapon systems and components. Industry will limit its participation in the "Battle Lab process" if they perceive a lack of fairness in the conduct of an information exchange, or a failure on the part of Battle Lab staffs to safeguard proprietary and commercial information.

This guide discusses broad principles that should serve to define the limits within which this necessary exchange of information between Battle Labs and Industry will occur. This guide serves to flag problem areas for Battle Lab staffs. It does not replace close communication with the supporting contracting office and legal office.

Army Battle Labs are organized into the eleven focus areas below:

### **Air Maneuver Battle Lab**

The air maneuver concept: Aviation's inherent flexibility, agility, and mobility can be leveraged by joint and combined forces to project the force, protect the force, sustain the force, and shape the battlespace by striking the enemy throughout the width and depth of the battlespace.

**Air & Missile Defense Battle Lab (provisional)**

The air and missile defense (AMD) concept: Protect the force and selected geopolitical assets from aerial attack, missile attack and surveillance.

**Battle Command Battle Lab (BCBL)**

A triad of Battle Labs explore the battle command concept: A commander focused, mobile, up-tempo architecture enabling commanders to exercise command wherever they are and in all environments. The concept bridges the human and technical dimensions of command in combat.

- **BCBL(L) - Fort Leavenworth** explores the art and science of battle command and information operations.
- **BCBL(G) - Fort Gordon** explores the means of battle command and friendly elements of information operations.
- **BCBL(H) - Fort Huachuca** explores Intelligence and Electronic Warfare (IEW) and Command and Control Warfare (C2W).

**Combat Service Support Battle Lab**

The combat service support concept: The Army must have versatile logistics at all levels with near total asset visibility and split-based operations capabilities to enable just-in-time distribution based support.

**Depth and Simultaneous Attack Battle Lab**

The depth and simultaneous attack concept: Forces must be able to engage, defeat or destroy adversaries in all three dimensions simultaneously throughout the depth of the battlefield with both lethal and non-lethal effects.

**Dismounted Battlespace Battle Lab**

The dismounted battlespace concept: Dismounted soldiers must be able to dominate an expanded battle space to include engagement of adversaries at extended ranges, both day and night.

**Maneuver Support Battle Lab**

Maneuver support provides the combined and joint force freedom of movement and protection from effects of the enemy's actions, while denying the enemy freedom of movement.

**Mounted Maneuver Battle Lab**

The mounted maneuver concept: Mounted forces must be able to dominate an expanded battle space to include engagement of adversaries at extended ranges, both day and night.

**Space & Missile Defense Battle Lab**

SMDBL is an externally organized and funded entity of the Army Space and Missile Defense Command. It conducts experiments in the domains of space and missile defense.

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**BATTLE LABS' GUIDE TO DEALING WITH INDUSTRY**

**Summary.** This pamphlet provides procedures on how the TRADOC Battle Labs will interact with industry.

**Applicability.** This pamphlet applies to the TRADOC Battle Labs.

**Suggested improvements.** The proponent of this pamphlet is the Staff Judge Advocate. Send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) through channels to Commander, TRADOC, ATTN: ATJA, 11 Bernard Road, Fort Monroe, VA 23651-1001. Suggested improvements may also be submitted using DA Form 1045 (Army Ideas for Excellence Program (AIEP) Proposal).

**Distribution restriction.** Approved for public release; distribution is unlimited.

**Availability.** This publication is also available on the TRADOC Homepage at <http://www.tradoc.army.mil>

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## I. FACILITATING AN EXCHANGE OF INFORMATION WITH INDUSTRY

Contacts with industry are necessary to determine the state of the art in a specific industry or to investigate an individual contractor's application of technology. Industry contacts involve the release of information concerning government areas of interest to contractors, the solicitation of information from contractors, and the submission of information by contractors. In determining when and how to undertake these contacts, three major concerns must always be addressed: creating an environment that fosters competition, ensuring that no contractor is given an unfair competitive advantage, and protecting a contractor's proprietary information. If these three elements underlie the industry contact policy, most legal pitfalls can be avoided.

A. Government-initiated contacts. The following guidelines will help Battle Lab staffs address these concerns when planning, initiating, and conducting their contacts with industry.

1. General release of information. Department of Defense (DoD) and Department of the Army (DA) policy favor the release of information to industry as early as possible. Contacts with industry, from the earliest identification of a requirement through receipt of proposals, are encouraged. Specifically, Federal Acquisition Regulation (FAR) 15.201(a) encourages exchanges of information among all interested parties. Interested parties include potential offerors, end users, Government acquisition and supporting personnel, and others involved in the conduct or outcome of the acquisition. General information about agency mission needs and future requirements may be disclosed at any time. However, after release of the solicitation, the contracting officer shall be the focal point of any exchange with potential offerors (FAR 15.201(f)). Any release of information must be consistent with procurement integrity requirements (FAR 3.104). This release policy will help Battle Lab staffs to obtain "high pay-off" technologies. The only exception to release is protected information, which is comprised of proprietary, source selection, advance acquisition, classified, and planning, programming, and budgeting system (PPBS) information. Release protected information in accordance with (IAW) applicable law and regulation. The improper release of protected information causes industry to lose faith in the fairness of the system and may hamper the ability to obtain such information in the future.

2. Seeking information from industry. Battle Lab staffs need to know about emerging technologies and concepts as well as the actual capabilities of the marketplace in order to define requirements. Gather information from industry and encourage their participation in the Battle Lab process. The following procedures meet these two needs:

a. Commerce Business Daily (CBD). The CBD is a government publication used to notify industry of government requirements. It is also one of the easiest and most effective ways to solicit information from industry. The supporting contracting office prepares and publishes all notices in the CBD. By regulation, most government procurements must be synopsisized in this publication for a specific period of time. Use the CBD to provide notice of a variety of events, such as the establishment of mailing lists, briefings or other meetings, the existence of electronic bulletin board systems (BBS), and requests for specific information. Further, a CBD notice can request a variety of information, including current technological capability, industry's thoughts on a novel application of technology, and ideas concerning future development. The U.S. Department of Commerce has established the Commerce Business Daily on the Internet (<http://cbdnet.access.gpo.gov>). Registered offices can enter synopses on-line through this service. Contracting officers may publish in the CBD special notices of procurement matters such as business fairs, long-range procurement estimates, pre-bid/pre-proposal conferences, meetings and the availability of draft solicitations or draft specifications for review (FAR 5.205(c)). Acquisitions under the simplified acquisition threshold (currently \$100,000; \$200,000 for contingency operations) need not be synopsisized (FAR 5.202(a)(13)), if they are conducted by using the Federal Acquisition Computer Network (FACNET), where access to the notice of proposed contract action is provided through the single, Government-wide point of entry, and permits the public to respond to the solicitation electronically (FAR 5.301(b)(7)).

b. Requests for Information (RFI). RFIs may be used when the Government does not presently intend to award a contract, but wants to obtain price, delivery, other market information, or capabilities for planning purposes. Responses to these notices are not offers and cannot be accepted by the Government to form a binding contract. There is no required format for RFIs (FAR 15.201(e)).

c. Professional associations. Industry can also be reached through defense-related professional associations. For example, Battle Lab staffs could address a professional association sponsored symposium to discuss the mission and future requirements of the Battle Labs. Battle Lab staffs should consult their supporting legal office prior to such participation.

d. Newsletters. Newsletters, fact sheets, electronic mail system (E-mail), or bulletin board systems (BBSs) are other methods to reach industry. A CBD notice announces the establishment of such systems and how to obtain or join them. Republish the notice annually. The FAR allows publication of notices in trade journals, periodicals, and similar publications.

e. Briefings. Battle Lab staffs can host industry briefings by holding industry or small business conferences or sponsoring public hearings. Give notice of these briefings the widest possible dissemination to include publication in the CBD, BBS, or other established publication. Normally, all interested contractors should be invited to attend. If space constraints prevent this, attendance should be on a first come, first served basis. Do not limit the attendance to contractors who previously dealt with the Battle Lab staffs, otherwise an appearance of favoritism is created. Consider an additional briefing in the event attendance is limited. Copies of any briefing slides and a summary of discussion must be available for any interested individual. An "Industry Day," or contractor open house conducted on the installation can also be used.

f. One-on-one meetings with potential offerors. One-on-one meetings with potential offerors may be held to discuss future requirements and determine which technologies are available for future Army needs (FAR 15.201(c)(4)). These meetings should be restricted to the disclosure of general information that would not give a potential offeror an advantage over others, and should involve the contracting officer if the meeting involves potential contract terms or conditions.

g. Site visits. Accept invitations from industry representatives to receive briefings at a contractor's plant or facility. Once again, consider the need to avoid the perception of favoritism when responding favorably to such requests. A Battle Lab staff should consult its supporting legal office prior to such visits.

3. Soliciting information during an acquisition. When using the methods for soliciting information discussed above, the contacts are only subject to the limits of treating all contractors fairly and not revealing protected information. Upon commencement of an acquisition, do not freely discuss it with industry. An acquisition begins when the Government has the capability of defining performance characteristics and functions. At that time, the Government may no longer conduct one-on-one discussions and unprotected information must be made available to industry at large. There are still devices available to the supporting contracting officer for communicating with industry during the acquisition process. The following are examples of such means:

a. Broad Agency Announcement (BAA). Use a BAA to solicit contract proposals from industry in response to an identified government research and development requirement. If any of these proposals are determined to be acceptable, award a formal contract. The supporting contracting office is responsible for BAAs.

b. Draft solicitation. Once a procurement package has been developed (a coordinated effort between the Battle Lab staffs and the TRADOC Acquisition Center (TAC) or TRADOC Acquisition Center-Leavenworth (TAC-L)), the contracting officer can issue a draft solicitation for industry comment. This tool is especially useful for technically complex requirements and/or unique and innovative approaches. Prospective contractors may ask clarifying questions and/or suggest better ways to meet the

requirement. The Government can then review and address the comments before issuing the final solicitation. Only the TAC or TAC-L can issue a draft solicitation.

c. Pre-proposal or pre-solicitation conferences. A solicitation can provide for a pre-proposal conference. The contracting office normally hosts this conference, with the major input coming from the requiring activity (i.e., the Battle Lab staffs). The conference is open to all contractors interested in submitting a bid or proposal, whether as a prime or sub-contractor. A pre-proposal conference gives the Government an opportunity to emphasize what it feels are the most important areas of the solicitation. Do not allow pre-proposal conferences to turn into a question and answer session between the contractors and the Government. Ask and answer all questions in writing. This ensures that all interested parties receive the same answer to the question at the same time and helps to avoid inconsistent interpretations.

B. Industry-initiated contacts. Generally, the guidance in paragraph A above also applies to industry requests for meetings and briefings. Industry contacts may also include the submission of an unsolicited proposal or an offer to conduct an unfunded study. Upon receipt of an unsolicited proposal or request to conduct an unfunded study, the Battle Lab staff should refer to established TRADOC policy on the receipt and processing of such actions. The following is an overview of these contacts:

1. Unsolicited proposals. An unsolicited proposal is a contractor's written offer to enter into a contract with the Government without issuance of a solicitation. A company's submission of advertising material, commercial product offerings, or technical correspondence does not constitute an unsolicited proposal. Unsolicited proposals cannot be in response to a request for proposals, Broad Agency Announcement, Small Business Innovation Research topic, Small Business Technology Transfer Research topic, Program Research and Development Announcement, or any other Government-initiated solicitation or program (FAR 15.601). DoD policy encourages the submission of unsolicited proposals. Exchanges between the Government and the submitter can include general statements of work for the effort contemplated. Limit contacts with agency technical personnel to the purpose of obtaining an understanding of the agency mission and responsibilities relative to the type of effort contemplated. Battle Lab staffs can not commit the Government to the acceptance of an unsolicited proposal. Forward the proposal to the TAC/TAC-L Unsolicited Proposal Control Officer.

2. Unfunded studies. The purpose of an unfunded study is to allow the establishment of a legal relationship between an industrial, scientific, educational, or other qualified civilian company or organization and the Army to work on studies/projects deemed to have merit and which possess a high potential for benefiting the Army. The organization or company conducts a research and development (R&D) study at its own expense with limited Army assistance. This limited assistance includes consultation with Army subject matter experts and obtaining access to technical and classified information relative to the study. The organization and the Army must enter into a written agreement. An unfunded study is not a contract; rather it is a voluntary agreement between the sponsoring activity and a private organization. Provision is made for either party to terminate the agreement at its discretion. The contracting officer processes the request and agreement. HQ TRADOC, Deputy Chief of Staff for Base Operations Support (DCSBOS), Director of Acquisition, approves the request and the agreement.

C. Vendor demonstration. A vendor demonstration is a display of product capability at no cost to the Government. The products can range from computer hardware and software to vehicles and weapons. Either vendor or government personnel can conduct the demonstration. Use written vendor demonstration agreements in order to protect the interests of both the Government and the contractor. The agreement should protect the government against liability for costs incurred in conducting the demonstration, responsibility for damage to the product, and any obligation to buy the product. Moreover, the agreement must prohibit use of the test results in contractor advertising. Both the contractor and a designated member of the Battle Lab staff must sign the agreement. Vendors may object to competitors attending the demonstration because of the disclosure of vendor proprietary information. Limit attendance at the contractor's request. Before agreeing to a demonstration or accepting an item of equipment from a contractor for purposes of tinkering/experimentation, Battle Lab staffs must contact the Battle Lab Integration and Technology Directorate (BLITD), Fort Monroe. BLITD determines whether the U.S. Army

Materiel Command (AMC), or other responsible purchasing activity, is procuring this type of product, and if necessary, coordinates with the responsible contracting officer to avoid compromising that procurement. A successful demonstration may result in a decision to purchase the product to conduct further experimentation. Supporting contracting offices make such purchases. Buying products for “tinkering” supports the Battle Lab mission.

## II. CATEGORIES OF PROTECTED INFORMATION

Certain categories of information require protection and must not be improperly disclosed. These categories are: proprietary information, source selection information, advance acquisition information, classified information, and PPBS documents. PPBS documents are used in budget planning and are not needed to communicate with industry. However, Battle Lab staffs must have a thorough understanding of proprietary information, source selection information and advance acquisition information. The improper handling or release of these categories of information can adversely affect the Battle Lab mission.

A. Proprietary information. Proprietary information includes unique technologies, patents, data rights, trade secrets, methodologies developed by contractors and other information the agency head or the contracting officer designates as proprietary. Information available without restriction to the Government, another competing contractor or the public is not proprietary. Contractors will intensely scrutinize the handling of proprietary information by Battle Lab staffs. If Battle Lab staffs take a cavalier approach towards this information, contractors will be reluctant to submit proprietary information in the future. Considerations in handling proprietary information are as follows:

1. Accepting proprietary information. Contractors should submit proprietary information in writing and state the limits of its use. Contractors will normally discuss this information on a one-on-one basis. If the Battle Lab staffs want to share this information with other non-governmental entities, they must have the written permission of the contractor that submitted the information. While staffs may forward proprietary information to other Federal Government agencies, they must mark the information as proprietary.

2. Government ideas. The Government has a right to use its own ideas. Industry disclosure of ideas claimed to be proprietary which are the same as, or similar to, those of the Government, especially when such claims are made orally during private sessions, often lead to misunderstandings, controversy, and litigation. If the Government is already considering an idea that is presented by a contractor, immediately inform the contractor of that fact and make a memorandum for record of the discussion. Because this presents a difficult issue when it arises, technicians, engineers, and project officers must keep accurate and complete records, to include notebooks. Battle Lab staffs must keep their working papers beyond the period of their involvement in a particular action and file them IAW AR 25-400-2. When a controversy over proprietary data develops, Battle Lab staffs must immediately consult their legal advisor for guidance.

3. Improperly marked information. Contractors may submit information marked as proprietary as part of an unsolicited proposal or a solicited proposal. If Battle Lab staffs believe this proprietary marking is improper, the contracting officer has limited regulatory authority to remove it. Contact the supporting contracting officer in these circumstances. Until the matter is resolved, protect the material marked as proprietary information.

B. Source-selection information (SSI). SSI is information prepared or developed for use by the Government to conduct a particular procurement, which if disclosed to a competing contractor, would jeopardize the integrity or successful completion of the procurement. There are ten categories of SSI. Categories one through nine are SSI whether or not they are marked as such. These nine categories are--

1. Bid prices submitted in response to a solicitation for sealed bids or lists of those bids before bid opening.

2. Proposed costs or prices submitted in response to a solicitation for other than sealed bids, or lists of those costs or prices before award.
3. Source-selection plans.
4. Technical-evaluation plans.
5. Technical evaluations of proposals.
6. Cost or price evaluations of proposals.
7. Competitive range determinations.
8. Rankings of bids, proposals, or competitors.
9. Reports and evaluations of source-selection panels, boards, or advisory councils.

The tenth category of SSI is information which, if disclosed to a competing contractor, would provide an unfair competitive advantage or jeopardize the integrity or successful completion of the procurement concerned and is marked "SOURCE SELECTION INFORMATION -- SEE FAR 3.104." The SSI may be so marked only by appropriate authority--usually, the supporting contracting officer. SSI cannot, without prior approval, be disclosed, to any contractor or any government employee who has not been authorized access by the head of the agency, his or her designee, or the contracting officer. If there is doubt whether certain material is or is not SSI, err on the side of caution and consult the supporting contracting officer or legal advisor.

C. Advance acquisition information. This category of protected information is perhaps the most difficult to recognize and, therefore, to handle in a proper manner. While general information about agency missions and needs can be disclosed, specific information relating to a proposed acquisition cannot be disclosed in a manner that would give one or more potential offerors an unfair competitive advantage. Advance acquisition information includes acquisition plans, funding estimates for a proposed acquisition, a sole-source justification, or statements of work or specifications. This list is not all encompassing. The determination of what information may constitute advance acquisition information needs to be made on a case-by-case basis. If doubt exists concerning a decision to disclose information due to questions about the effect on competition, resolve that doubt in favor of nondisclosure. Refer such questions to the servicing contracting officer who has the authority to disclose advance acquisition information in a variety of ways, all of which are intended to ensure the disclosure is handled in a fair and equitable manner to all potential contractors.

### III. FREEDOM OF INFORMATION ACT

The Freedom of Information Act (FOIA) is a Federal statute that governs the release of information within the Government's control. DoD policy is to make the maximum amount of information available to the public consistent with its other responsibilities. FOIA requests can be for either government-generated information or contractor-provided information. Although the policy is to disclose, release may be denied under a number of exemptions. These exemptions include trade secrets, commercial or financial information, and government-owned confidential R&D information. With regard to contractor-provided information, an initial denial authority makes the decision whether to deny a request after soliciting the opinion of the company that submitted the information. Forward all FOIA requests to the installation FOIA officer (see AR 25-55).

### IV. CONTRACTING

The acquisition system is the process by which the Government purchases services and supplies. This section is not intended to be a comprehensive discussion of this complex process. Battle Lab staffs

will participate in this process by generating requirements either for support services for the staff or for the acquisition of new technologies. The supporting contracting office has responsibility for managing the acquisition process.

A. Acquisition process. Battle Lab staffs initiate the process by identifying a requirement that is to be satisfied by procurement. A team of experts (i.e., technical, legal, financial, and contracting) assist the Battle Lab staffs in planning the acquisition. The team prepares a procurement package (i.e., statement of work, cost estimate, and evaluation criteria) under the direction of the contracting officer. The contracting officer issues the solicitation to and receives proposals from industry. The contracting officer, with assistance from the staff, evaluates proposals, negotiates with competing contractors, and awards the contract. Staff members support the contracting officer in administering the awarded contract, primarily by being a contracting officer's representative (COR). The TAC is responsible for all procurements except those relating to major systems support (AMC responsibility) and Battle Command Battle Lab (TAC-L responsibility).

B. Areas of concern. Consider the following factors when planning an acquisition:

1. Contractor assistance. A contractor can provide support to the Battle Lab staff in a variety of ways to include the conduct of analyses, simulation, experimentation, evaluation, and integration. Contractors cannot perform inherently governmental tasks such as policy or decision making functions. Additionally, contractors cannot be subject to continuous supervision by government personnel, thereby creating an impermissible personal services arrangement. Battle Lab staffs must continue to perform inherently governmental functions and administer these support service contracts in a proper manner. The use of a contractor support staff may assist Battle Lab staffs in the accomplishment of their mission; however, the use of such support staffs may inhibit the submission of proprietary information. Contractors are less likely to participate in Battle Lab activities if their proprietary information is provided to a competing contractor's staff. Battle Lab staffs need to be aware of this concern and advise potential participants that appropriate safeguards are included in support service contracts. An appropriate safeguard would be an executed non-disclosure agreement.

2. Competition. The Competition in Contracting Act of 1984 requires full and open competition in soliciting offers and awarding contracts. There are some limited exceptions to this act. Last minute planning and year-end funding are not exceptions to the act. Justify and approve all sole source or limited competitive procurements through contracting office channels.

3. Advisory and assistance services. Advisory and assistance services contracts are for consulting services, studies, and management analyses. Use advisory and assistance services contracts to perform studies and analyses in support of the Battle Lab mission. As mentioned previously, advisory and assistance services contractors cannot perform inherently governmental work, work that can be done more effectively in-house, or duplicate services or reports already available or in progress.

4. Use of omnibus, master, umbrella & consortium contracts (hereinafter collectively referred to as "omnibus" contracts). "Omnibus" contracts contain a broad statement of work defining functional and technical areas requiring support. Support may be obtained for a particular project by issuing a delivery (task) order with a detailed statement of need.

5. Unauthorized commitments. An unauthorized commitment is obligating funds, tasking a contractor to perform work, or changing the terms of a contract without authority. The authority to direct these activities is vested solely in the contracting officer. Apparent authority is the authority a contractor believes a government official to have because of the official's position. Unlike non-governmental contracts where a contractor may act on someone's apparent authority, there is no apparent authority in government contracting. In that individuals who initiate unauthorized commitments may be held personally liable for the committed funds, Battle Lab staffs must guard against giving the impression of apparent authority.

6. Funding. Battle Lab staffs must ensure correct and sufficient funding. Because of the complexity in this area, consult the resource manager early in the process. A contract may require the use of more than one type of funds; however, the following general guidance applies. Service contracts such as analytical and training support require Operation and Maintenance, Army (OMA) dollars. Contracts for the procurement of equipment which cost over \$100,000 for each piece or system require Other Procurement, Army (OPA) dollars. Contracts that involve R&D generally require research, development, test, and evaluation (RDTE) dollars.

C. Alternatives to a new contract. Rather than conducting a new procurement, consider one of the following alternatives:

1. Offloads. Offload is the process of meeting contract requirements through contracts awarded by organizations other than TRADOC. The advantage of offloads is they require less time than a new procurement. The disadvantages are that the organizations given offload work (e.g., The Office of Personnel Management or the Defense Supply Service) charge administrative fees sometimes as high as 23% and are not responsible to TRADOC. Approve all offload actions IAW established TRADOC policy. See TRADOC Offload Policy Memorandum #97-2 (<http://www.tradoc-acq.army.mil/pdfs/offload.pdf>).

2. Existing contracts. In some instances, issue delivery orders against an existing HQ TRADOC contract as an alternative to a new contract. The advantage is that less time is required than for a new procurement. See the points of contact in section VI, below for a list of existing contracts within TRADOC activities.

3. Scientific Service Program. The U.S. Army Research Office (ARO), Research Triangle Park, NC, administers the Scientific Services Program (SSP). The SSP consists of five general program categories and is intended to serve as a quick-response program for the Army. Two of the categories, Short Term Analysis Services (STAS) and the Laboratory Research Cooperative Program (LRCP), may be of interest to Battle Lab staffs. STAS is designed for the resolution of specific scientific or technical problems where the objective can be reached in a short time, while LRCP is designed for research and exchange of information between scientific personnel and the staff. The dollar limit on the use of either of these programs is \$500,000 per task, plus the ARO overhead of 10%. ARO will not grant exceptions to this policy. ARO published an on-line brochure detailing SSP that includes detailed instructions on preparing a statement of work. Offload of work to ARO is subject to established TRADOC policy.

D. References. See the points of contact in section VI below for a list of available acquisition-related publications.

## V. STANDARDS OF CONDUCT

DoD 5500.7-R governs the following areas when dealing with industry:

A. Gratuities. Government personnel are prohibited from accepting anything of value from those companies that seek to do business with DoD. There are limited exceptions to this prohibition. For information on these exceptions, consult with an ethics counselor in the servicing legal office.

B. Dealing with former DoD personnel. There are prohibitions on selling and representation activities by former DoD personnel. Battle Lab staffs are prohibited from dealing with former DoD personnel if this would cause that former employee or officer to violate one of these restrictions. To deal with these issues, use a visitor registration form to elicit information from a visitor to determine if they are subject to one of these restrictions. The ethics counselor and forms manager can assist in the development of this form.

C. Conflicts of interest. Government personnel should not involve themselves with a company in which they have a financial interest. Those personnel who do have contacts with industry and who own stock with a company in which they have contact should discuss the matter with their supervisor and

command ethics counselor. There are extensive statutes and regulations affecting this area and a full discussion of them are beyond the scope of this guide. An ethics counselor can provide further information.

D. Negotiating for employment. The first step in negotiating for employment while on Active Duty is the submission of a disqualification statement. Negotiating for employment is broadly defined. If an individual is participating personally and substantially in a procurement for a contract in excess of the simplified acquisition threshold, he/she must promptly report in writing **any contact** with a bidder/offeree in that procurement concerning non-Federal employment and must either reject the possible employment or disqualify him/herself from further participation in the procurement. *See* Procurement Integrity provisions in 41 U.S.C. 423(c), FAR 3.104-4(c), FAR 3.104-6; and DoD 5500.7-R (Joint Ethics Regulation (JER)), sections 8-300 and 8-301. Check with your ethics counselor concerning the meaning of personal and substantial participation and any changes in the simplified acquisition thresholds. Failure to follow these procedures can result in a ban on working for that contractor for 10 years after separation from Government service and the imposition of a fine up to \$10,000. Personnel who are planning to leave Active Duty should consult with an ethics counselor.

E. Procurement Integrity Act. Congress passed the Procurement Integrity Act of 1989 to control abuses in the procurement process. In 1996, the Act was completely rewritten in Section 4304 of the Clinger-Cohen Act, (P.L. 104-106). The new Act became effective on January 1, 1997. The Act's new provisions are implemented in FAR 3.104. DoD implementation is found in Defense Federal Acquisition Regulation Supplement (DFARS) 203.104. The act prohibits a procurement official from negotiating for employment with a competing contractor, accepting gratuities (anything of value) from a competing contractor, disclosing source selection or proprietary information, and working for the successful contractor for 2 years after the end of the official's participation. The first three prohibitions apply during the conduct of a procurement, which is the period commencing with the writing of a statement of work or specifications and ending with the award of a contract or the cancellation of the procurement. If an individual writes or reviews and approves a statement of work or specifications for a procurement, initiates a purchase request, evaluates proposals, or participates in source selection, he or she is a procurement official. Procurement officials are required to sign a certification stating that they have received a written explanation of the act, will obey the act, and report any known violations. An ethics counselor can provide copies of this certification and advise Battle Lab staffs where they are filed. Much of the conduct prohibited under the Procurement Integrity Act is also prohibited by other statutes and regulations.

## VI. POINTS OF CONTACT

### A. Acquisition.

#### 1. HQ TRADOC, DCSBOS, Directorate of Acquisition (ATBO-A)

##### a. Director, DSN 680-2784.

b. Requirement/Acquisition Management Branch (R/AM). Responsible for competition, acquisition planning, and offloads, DSN 680-3799/3914/2584/3485.

#### 2. TRADOC Acquisition Center (TAC), Fort Eustis, VA, DSN 927-1351. (All Battle Labs, except Battle Command.)

#### 3. TRADOC Acquisition Center-Leavenworth (TAC-L), Fort Leavenworth, KS, DSN 552-2971. (Battle Command Battle Lab.)

#### 4. U.S. Army Research Office, Contracting Office, P.O. Box 12211, Research Triangle Park, NC 27709-2211, DSN 832-4269.

### B. Legal.

1. HQ TRADOC, Staff Judge Advocate, Civil Law Division (ATJA), DSN 680-2773/2561.
2. Each installation Staff Judge Advocate has an ethics counselor and contracts attorney.
3. TAC Legal Office, DSN 927-3703.
4. TAC-L Legal Office, DSN 552-4941.

APPENDIX A  
REFERENCES

AR 25-55

Freedom of Information Act (FOIA) Program

AR 25-400-2

The Modern Army Record-keeping System (MARKS)

DOD 5500.7-R

Joint Ethics Regulation (JER)

Federal Acquisition Regulation (FAR)

Defense Federal Acquisition Regulation Supplement (DFARS)

5 CFR 2635

Standards of Ethical Conduct for Employees of the Executive Branch

SF 450

Executive Branch Personnel Confidential Financial Disclosure Report

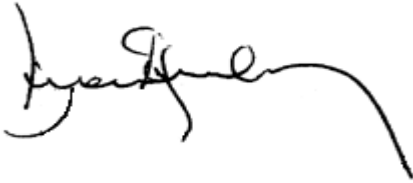
## GLOSSARY

|        |   |
|--------|---|
| AMC    | U.S. Army Materiel Command                        |
| ARO    | U.S. Army Research Office                         |
| BAA    | Broad Agency Announcement                         |
| BBS    | bulletin board system                             |
| BLITD  | Battle Lab Integration and Technology Directorate |
| CBD    | Commerce Business Daily                           |
| COR    | contracting officer's representative              |
| DA     | Department of the Army                            |
| DFARS  | Defense Federal Acquisition Regulation Supplement |
| DoD    | Department of Defense                             |
| DSN    | Defense Switching Network                         |
| FAR    | Federal Acquisition Regulation                    |
| FOIA   | Freedom of information Act                        |
| IAW    | in accordance with                                |
| JER    | Joint Ethics Regulation                           |
| LRCP   | Laboratory Research Cooperative Program           |
| OMA    | Operation and Maintenance, Army                   |
| OPA    | Other Procurement, Army                           |
| PPBS   | planning, programming, and budgeting system       |
| R&D    | research and development                          |
| RDTE   | research, development, test, and evaluation       |
| SSI    | source selection information                      |
| SSP    | Scientific Services Program                       |
| STAS   | Short Term Analysis Services                      |
| TAC    | TRADOC Acquisition Center                         |
| TAC-L  | TRADOC Acquisition Center-Leavenworth             |
| TRADOC | U.S. Army Training and Doctrine Command           |

FOR THE COMMANDER:

OFFICIAL:

CHARLES W. THOMAS  
Major General, GS  
Chief of Staff

A handwritten signature in black ink, appearing to read 'Thom E. Tuckey', with a long, sweeping horizontal stroke extending to the right.

THOM E. TUCKEY  
Colonel, GS  
Deputy Chief of Staff  
for Information Management

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